

M.M., Appellant

**DEPARTMENT OF VETERANS AFFAIRS,
VETERANS HEALTH ADMINISTRATION,
MINNEAPOLIS VA MEDICAL CENTER,
Minneapolis, MN, Employer**

Case Submitted on the Record

ISSUE

The issue is whether appellant has met his burden of proof to establish a right elbow condition causally related to the accepted March 2, 2020 employment incident.

FACTUAL HISTORY

On March 4, 2020 appellant, then a 48-year-old supply technician, filed a traumatic injury claim (Form CA-1) alleging that on March 2, 2020 he was maneuvering a cart, which was difficult to push and steer, when he experienced a shooting pain from his elbow to his fingers, while in the performance of duty. He stopped work on March 2, 2020 and returned to work on March 4, 2020. On the reverse side of the claim form appellant's supervisor acknowledged that appellant was injured while in the performance of duty.

Appellant submitted a form dated March 6, 2020 from Dr. Fardows Omar Salim, a family medicine specialist, who noted a March 2, 2020 date of injury and provided work restrictions.

OWCP also received an imaging report dated March 10, 2020 from Dr. Kyle Shipley, a Board-certified diagnostic radiologist, which related an impression of mild distal biceps and common extensor tendinopathy.

Appellant submitted a work capacity form dated March 11, 2020 from Dr. Elizabeth Moorhead, a Board-certified internist. Dr. Moorhead related that appellant was injured on March 2, 2020 and diagnosed right ulnar neuropathy and right lateral epicondylitis. He noted appellant's work restrictions and limited him to four hours of work a day.

In a development letter dated March 23, 2020, OWCP informed appellant of the deficiencies of his claim. It informed him of the type of factual and medical evidence needed and provided him with a questionnaire. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted a medical report dated March 4, 2020 from Dr. Salim. Dr. Salim related that appellant was pushing and steering a crash cart with bad wheels at work and reinjured his right elbow. She related that appellant had previously injured the same elbow at work in April 2019 when he struck his elbow on metal shelving.³ Dr. Salim provided an assessment of right elbow pain and noted that there concern regarding a fracture *versus* a nerve injury; therefore, appellant would undergo an x-ray and magnetic resonance imaging (MRI) scan.

By decision dated May 6, 2020, OWCP accepted that the March 2, 2020 employment incident occurred, as alleged. However, it denied appellant's claim, finding that he had not submitted medical evidence containing a medical diagnosis in connection with his accepted

³ Appellant has a prior claim under OWCP File No. xxxxxx929 alleging that on April 11, 2019 he was stocking a storeroom, lifting heavy boxes and putting them on shelves, when he struck his elbow against the metal shelves. OWCP denied that claim by decisions dated August 29 and December 17, 2019. Appellant's claims have not been administratively combined by OWCP.

employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On April 13, 2021 appellant, through counsel, requested reconsideration of OWCP's May 6, 2020.

In a letter dated March 30, 2021, Dr. Moorhead related that, on April 11, 2019, appellant was carrying boxes when he struck the posterior side of his elbow on a shelf. She noted that an electromyogram (EMG) performed on September 3, 2019 showed a mild right ulnar sensory mononeuropathy, and an MRI scan performed on December 9, 2019 showed mild lateral epicondylitis. Dr. Moorhead diagnosed lateral epicondylitis, ulnar neuropathy, and right elbow pain.

By decision dated May 26, 2021, OWCP modified its May 6, 2020 decision and found that appellant had established a diagnosed medical condition, but denied appellant's claim as causal relationship had not been established between the diagnosed right elbow condition and the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁵ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁶ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury.⁸

⁴ *Supra* note 2.

⁵ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁹ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.¹⁰

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right elbow condition causally related to the accepted March 2, 2020 employment incident.

Appellant was initially seen by Dr. Salim on March 4, 2020 who related appellant's history of the alleged March 2, 2020 injury, and noted that appellant had previously injured his right elbow at work in April 2019 when he struck his elbow on metal shelving. Dr. Salim assessed right elbow pain. The Board has held that pain is a description of a symptom, not a firm diagnosis of a medical condition.¹¹ Moreover, Dr. Salim did not provide an opinion with regard to causal relationship. In a form report dated March 6, 2021, she noted appellant's work restrictions, but again did not provide a firm diagnosis or an opinion regarding causal relationship. The Board has held that a medical report lacking a firm diagnosis or an opinion on causal relationship is of no probative value.¹² As such, these reports are insufficient to meet appellant's burden of proof.

In a report dated March 11, 2020, Dr. Moorhead related that appellant was injured on March 2, 2020. She diagnosed right ulnar neuropathy and right lateral epicondylitis. However, Dr. Moorhead merely repeated the history of injury as reported by appellant without providing her own opinion regarding whether appellant's condition was work related. OWCP also received a March 30, 2021 report wherein Dr. Moorhead related that on April 11, 2019 appellant was carrying boxes when he struck the posterior side of his elbow on a shelf. Dr. Moorhead related diagnoses of lateral epicondylitis, ulnar neuropathy, but did not provide an opinion on causal relationship. As noted, the Board has held that a medical report lacking an opinion on causal relationship is of no probative value.¹³ As such, this evidence is also insufficient to establish the claim.

⁹ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁰ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹¹ *D.R.*, Docket No. 18-1408 (issued March 1, 2019); *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

¹² *See J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *Id.*

Appellant also submitted diagnostic studies. The Board has long held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the employment incident caused a diagnosed condition.¹⁴

As the medical evidence of record is insufficient to establish causal relationship between a diagnosed right elbow condition and the accepted employment incident, the Board finds that appellant has not met his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.¹⁵

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a right elbow condition causally related to the March 2, 2020 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 26, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 7, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

¹⁴ *J.P.*, Docket No. 19-0216 (issued December 13, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

¹⁵ Upon return of the case record, OWCP should consider administratively combining this case record with the prior record for OWCP File No. xxxxxx929.